

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

MONSANTO COMPANY and)
MONSANTO TECHNOLOGY LLC,)
Plaintiffs,)
vs.)
E.I. DUPONT DE NEMOURS AND) Case No. 4:09-cv-00686-ERW
COMPANY and)
PIONEER HI-BRED INTERNATIONAL,)
INC.,)
Defendants.)

MONSANTO'S SECOND MOTION TO COMPEL

Plaintiffs Monsanto Company and Monsanto Technology LLC (collectively "Monsanto") respectfully move the Court for an order compelling Defendants to answer interrogatories and produce certain documents in response to Monsanto's discovery requests.

In support of this motion, Monsanto states that this motion is necessary because Defendants have continued to obstruct basic discovery relating to their breach of contract and patent infringement.

- Defendants refuse to answer simple interrogatories asking for the names of the individuals involved with the decision to create the unlawful OGAT/RR stacks.
- They refuse to identify the types, locations, and results of tests that Defendants have performed on the OGAT/RR stack.
- They refuse to provide the identities of any third parties who have received the OGAT/RR stack from Defendants.
- They refuse to answer an interrogatory asking for their sequencing of the DNA inserts in their own infringing products – despite the fact that Monsanto has fully answered a substantively identical interrogatory Defendants asked Monsanto.

- And, they refuse to produce an unredacted copy of a brief Pioneer filed in an Iowa federal court despite having already unequivocally agreed to produce this very brief to Monsanto.

Monsanto incorporates by reference its memorandum in support as if fully stated herein and further states, pursuant to Local Rule 37-3.04, that counsel for the parties have met and conferred on several occasions in good faith attempts to resolve their discovery disputes, including as set forth in the correspondence from Monsanto's counsel to Defendants' counsel dated August 23, 2010 (Ex. C), November 15, 2010 (Ex. D) and November 16, 2010 (Ex. E) requesting Defendants to make full and complete discovery responses, in an email dated November 16, 2010 from Defendants' counsel to Monsanto's counsel (Ex. F) agreeing to discuss the issues raised by Monsanto's counsel, and during a telephone conference on November 19, 2010. Notwithstanding these efforts, counsel have been unable to reach resolution of their disputes.

WHEREFORE, Monsanto respectfully moves the Court for an Order compelling Defendants to fully and completely respond to Interrogatory Nos. 2 and 10 of Monsanto's first set of interrogatories to Defendants and to produce an unredacted copy of Pioneer's Memorandum in Support of its Motion for Partial Summary Judgment in the case of *Pioneer Hi-Bred International, Inc. v. Ottawa Plant Food, Inc.*, No. C 98-4016-MWB (N.D. Iowa), within 10 days of the Court's Order.

Dated: November 23, 2010

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 23rd day of October, 2010, the foregoing was filed electronically with the Clerk of the Court for the United States District Court for the Eastern District of Missouri, Eastern Division, and was served by operation of that Court's electronic filing system, upon the following:

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